

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

H-E-B, LP,

Plaintiff

-VS-

**WADLEY HOLDINGS, LLC, SOUTHERN
SALES & MARKETING GROUP, INC.,
HOME DEPOT U.S.A., INC., HOME DEPOT
PRODUCT AUTHORITY, LLC,**

Defendants

W-20-CV-00081-ADA


OMNIBUS ORDER

On September 30, 2021, the Court held a Motion Hearing on certain pending motions, as proposed by the parties. Having considered the motions, the responses and the replies, along with the competent evidence and arguments of counsel, the Court enters the following Orders:

- Plaintiff H-E-B's Motion for Sanctions Against the Home Depot Defendants (Dkt. 127) is hereby DENIED WITHOUT PREJUDICE;
- The Home Depot Defendants' Motion for Partial Summary Judgment of No Patent Infringement (Dkt. 122) is hereby DENIED;
- Plaintiff H-E-B's Motion for Partial Summary Judgment of Infringement (Dkt. 136) is hereby GRANTED. A more fulsome order is forthcoming;
- Defendants' Motion for Partial Summary Judgment of Invalidity Based on (1) Effective Filing Date and Intervening On-Sale Bar and (2) Failure to Satisfy the Written Description Requirement (Dkt. 72) is hereby DENIED;
- Plaintiff H-E-B's Motion for Partial Summary Judgment of No Anticipation and No Prior Invention (Dkt. 132) is DENIED; and
- Home Depot U.S.A., Inc. and Home Depot Product Authority's Motion for Partial Summary Judgment that H-E-B's Asserted Trade Dress is Not Inherently Distinctive and On Plaintiff's Federal State Trade Dress Infringement and Unfair Competition Claims, Federal and State Trademark Dilution Claims, and Related

Common Law Claims Because H-E-B's Alleged Trade Dress Lacks Secondary Meaning (Dkt. 137) is hereby DENIED.

SIGNED this 1st day of October, 2021.



ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE